

No. 25-1017

IN THE
Supreme Court of the United States

REPUBLICAN NATIONAL COMMITTEE,
Petitioner,

v.

MI FAMILIA VOTA, ET AL.,
Respondents.

ON WRIT OF CERTIORARI TO THE UNITED STATES
COURT OF APPEALS FOR THE NINTH CIRCUIT

**BRIEF OF THE ELECTRONIC PRIVACY
INFORMATION CENTER AS *AMICUS CURIAE*
IN SUPPORT OF RESPONDENTS**

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TABLE OF CONTENTS

TABLE OF AUTHORITIES.....	iii
INTEREST OF <i>AMICUS CURIAE</i>	1
SUMMARY OF ARGUMENT.....	2
ARGUMENT.....	5
I. H.B. 2243 REQUIRES MONTHLY CHECKS AGAINST SAVE.....	5
II. ARIZONA’S MONTHLY SAVE CHECKS ARE A “SYSTEMATIC” REMOVAL PROGRAM.....	7
III. A SAVE NONCITIZEN IDENTIFICATION IS NOT A “READILY ASCERTAINABLE” STATUS LIKE CONVICTION, ADJUDICATED INCAPACITY, OR DEATH.....	10
A. The Government Has Repeatedly Admitted that SAVE’s Citizenship Data Is Incomplete and Unreliable.....	11
B. States’ Use of SAVE Further Confirms that SAVE’s Identification of Purported Noncitizens Is Often Inaccurate.....	14
C. Citizenship Status Is Easily Contrasted with the Status Categories that Congress Exempted from the NVRA Quiet Period.....	17
IV. THE QUIET PERIOD PROTECTS CITIZENS FROM SAVE ERRORS THAT CANNOT BE CORRECTED BEFORE AN ELECTION.....	20

A. A SAVE Error Cannot Reliably Be Corrected in the Weeks Before an Election.....	21
B. The Burden of a SAVE Error Falls on Citizens Who Have Done Nothing Wrong.....	22
C. The Remedies the Government Offers Arrive Too Late.....	24
D. States Can Keep Noncitizens Off Their Voter Rolls Irrespective of the Quiet Period.....	26
E. Bulk Processing Under Deadline Multiplies the Risks Associated With Handling Sensitive Data.....	27
CONCLUSION.....	29

TABLE OF AUTHORITIES

CASES

<i>Ala. Coal. for Immigrant Justice v. Allen</i> , No. 2:24-cv-1254, 2024 WL 4510476 (N.D. Ala. Oct. 16, 2024).....	25
<i>Arcia v. Florida Secretary of State</i> , 772 F.3d 1335 (11th Cir. 2014)	3, 7, 8, 21, 27
<i>League of Women Voters v. DHS</i> , 835 F. Supp. 3d 79 (D.D.C.), <i>stay granted</i> , No. 26A308, 2026 WL 2879700 (U.S. Sep. 25, 2026) (per curiam)	2, 3, 7, 15, 16
<i>League of Women Voters v. DHS</i> , No. 26- 5243, 2026 WL 2643439 (D.C. Cir. Sep. 4, 2026) (per curiam), <i>stay granted</i> , No. 26A308, 2026 WL 2879700 (U.S. Sep. 25, 2026) (per curiam)	7, 27
<i>Meese v. Keene</i> , 481 U.S. 465 (1987).....	23
<i>Virginia Coalition for Immigrant Rights v.</i> <i>Beals</i> , 803 F. Supp. 3d 454 (E.D. Va. 2025).....	25
<i>Virginia Coalition for Immigrant Rights v.</i> <i>Beals</i> , No. 24-2071, 2024 WL 4601052 (4th Cir. Oct. 27, 2024), <i>stay granted</i> , No. 24A407, 2024 WL 4608863 (U.S. Oct. 30, 2024).....	25

STATUTES

52 U.S.C. § 20501(b).....	29
52 U.S.C. § 20507(c)(2)(A).....	8, 27

52 U.S.C. § 20510(b).....	25
Ariz. Rev. Stat. § 16-120(A).....	27
Ariz. Rev. Stat. § 16-121.01.....	27
Ariz. Rev. Stat. § 16-128.....	18
Ariz. Rev. Stat. § 16-165(A)(10).....	6, 24, 26
Ariz. Rev. Stat. § 16-165(D).....	18
Ariz. Rev. Stat. § 16-165(E).....	18
Ariz. Rev. Stat. § 16-165(G).....	5
Ariz. Rev. Stat. § 16-165(H).....	5
Ariz. Rev. Stat. § 16-165(I).....	3, 5, 7
Ariz. Rev. Stat. § 16-165(J).....	5
Ariz. Rev. Stat. § 16-165(K).....	5
Ariz. Rev. Stat. § 16-166(F).....	27
Ariz. Rev. Stat. § 16-584(E).....	26

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20 C.F.R. § 422.104.....	11
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C.T. Bowen, <i>Hillsborough Election Hack Exposed 58,000 Voters' Private Information</i> , Tampa Bay Times (updated June 2, 2023), https://www.tampabay.com/news/breaking-news/2023/05/31/hillsborough-elections-hack-cyber-crimes-private-information-voters/	28
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Declaration of Brian Broderick, <i>League of Women Voters v. DHS</i> , No. 1:25-cv-03501 (D.D.C. Apr. 2, 2026), Dkt. 77-2.....	9, 28
Declaration of Christopher Davis, <i>League of Women Voters v. DHS</i> , No. 1:25-cv-03501 (D.D.C. Mar. 20, 2026), Dkt. 68-1.....	9, 22, 24

Declaration of Alex Doe, <i>League of Women Voters v. DHS</i> , No. 1:25-cv-03501 (D.D.C. Mar. 12, 2026), Dkt. 66-4.....	23, 28
Declaration of Bailey Doe, <i>League of Women Voters v. DHS</i> , No. 1:25-cv-03501 (D.D.C. Mar. 12, 2026), Dkt. 66-5.....	23, 24
Declaration of Cory Doe, <i>League of Women Voters v. DHS</i> , No. 1:25-cv-03501 (D.D.C. Mar. 12, 2026), Dkt. 66-6.....	9, 22, 23, 28
Declaration of J. Doe 6, <i>League of Women Voters v. DHS</i> , No. 1:25-cv-03501 (D.D.C. Oct. 7, 2025), Dkt. 16-8.....	21
Declaration of Anthony Nel, <i>League of Women Voters v. DHS</i> , No. 1:25-cv-03501 (D.D.C. Mar. 12, 2026), Dkt. 66-3.....	9, 22, 23, 28
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Joint Appendix, <i>League of Women Voters v. DHS</i> , No. 1:25-cv-03501 (D.D.C. June 12, 2026), Dkt. 110.....	4
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Letter from SSA Office of Gen. Counsel, to Fair Elections Ctr. (July 13, 2023), https://perma.cc/C6CU-9BQB	12
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INTEREST OF *AMICUS CURIAE*¹

The Electronic Privacy Information Center (EPIC) is a public-interest research center in Washington, D.C., established in 1994 to secure the fundamental right to privacy in the digital age for all people. Central to that work is oversight of how government agencies collect, use, retain, and share personal information.

EPIC has long worked to protect voter privacy and regularly participates as *amicus curiae* in cases concerning it. *See, e.g.*, Br. of *Amici Curiae* EPIC et al., *Crawford v. Marion Cnty. Election Bd.*, 553 U.S. 181 (2008) (No. 07-21); Br. of *Amicus Curiae* EPIC, *Pub. Int. Legal Found., Inc. v. Bellows*, 92 F.4th 36 (1st Cir. 2024) (No. 23-1361); Br. of *Amicus Curiae* EPIC, *Veasey v. Abbott*, 830 F.3d 216 (5th Cir. 2016) (en banc) (No. 14-41127). EPIC has also engaged directly with the recent modifications to the Systematic Alien Verification for Entitlements (SAVE) program. In December 2025, it led a coalition in submitting comments to the Social Security Administration (SSA) and the Department of Homeland Security (DHS) on the computer matching agreements and system-of-records notices in connection with the modifications DHS made to the SAVE program in 2025, which integrated SSA databases into the program and introduced a bulk-search capability to allow state and local officials to upload entire voter files and conduct citizenship checks of registered voters.

¹ No counsel for any party authored this brief in whole or in part, and no entity or person, aside from *amicus curiae*, its members, or its counsel, made a monetary contribution intended to fund the preparation or submission of this brief.

EPIC is a plaintiff in *League of Women Voters v. DHS*, 835 F. Supp. 3d 79 (D.D.C.), *stay granted*, No. 26A308, 2026 WL 2879700 (U.S. Sep. 25, 2026) (*per curiam*), a challenge to those modifications. In that case, EPIC reviewed the administrative records of DHS and SSA for modified SAVE and helped develop the factual record on how the system works and how it affects voters. EPIC submits this brief to describe that record, which bears on the second question presented as to whether the 90-day provision of the National Voter Registration Act (NVRA) applies to Arizona’s SAVE-based voter-registration cancellation program.

SUMMARY OF ARGUMENT

The United States defends Arizona’s SAVE-based voter-registration cancellation program on the premise that noncitizens identified by the program—like voters who have died, have been convicted of certain crimes, or have been adjudicated mentally incapacitated—are ineligible voters who may be removed from the rolls in the 90 days before a federal election because their legal status is “readily ascertainable.” Br. for the United States as Resp’t Supporting Pet’r 42 [hereinafter “U.S. Br.”]. That is because, according to the United States, SAVE is “a single, reliable source for verifying non-citizen status nationwide.”² That premise is false. SAVE routinely misidentifies citizens as noncitizens, and those errors cannot reliably be corrected in the weeks before an election. Application of the 90-day quiet period under

² Press Release, DHS, *DHS, USCIS, DOGE Overhaul Systematic Alien Verification for Entitlements Database* (Apr. 22, 2025).

the NVRA is critical to prevent the erroneous removal of eligible voters.

I. Arizona law requires each county recorder to compare against SAVE, every month, all registrants who have not provided documentary proof of citizenship. Ariz. Rev. Stat. § 16-165(I). Since SAVE’s modification in 2025, county recorders can upload their entire voter files to SAVE in bulk, and SAVE then attempts to match voters’ names, dates of birth, and Social Security numbers against SSA records. *DHS v. League of Women Voters*, No. 26A308, 2026 WL 2879700, at *1 (U.S. Sep. 25, 2026) (per curiam) [hereinafter “Stay Op.”]. The result is a systematic program that screens whole categories of voters against federal data on a fixed schedule. As the Government acknowledges, that program “is not time-limited,” and it continues during “the 90-day period before a federal election.” U.S. Br. 10.

II. No party to this case contests the systematic nature of Arizona’s program. A program that runs categories of registrants through a database each month is undoubtedly “systematic” under the NVRA. As the Eleventh Circuit explained, such a program does not “rely upon individualized information or investigation to determine which names from the voter registry to remove.” *Arcia v. Fla. Sec’y of State*, 772 F.3d 1335, 1344 (11th Cir. 2014). It uses “a mass computerized data-matching process.” *Id.* Arizona’s own Elections Procedures Manual classifies periodic noncitizenship cancellations based on jury reports and motor-vehicle records as “systematic.” Ariz. Sec’y of State, *2025 Elections Procedures Manual* 53 (Dec. 2025) [hereinafter “Manual”]. Because it is systematic,

Arizona’s program therefore may not run during the NVRA’s 90-day quiet period provision unless, as the Government contends, Congress meant to leave removals based on citizenship status outside that period.

III. A SAVE-based removal is not the kind of removal that Congress meant to exempt from the quiet period. A SAVE-based identification of alleged noncitizens is an inference from a database match against SSA citizenship data, which individuals have “no obligation” to update after they naturalize. Joint Appendix, *League of Women Voters v. DHS*, No. 1:25-cv-03501 (D.D.C. June 12, 2026), Dkt. 110, at SSA-AR-44 [hereinafter “SSA-AR”]. DHS’s own privacy assessments warn that shortfalls in that data “could cause incomplete or false results.” *Id.* at DHS-AR-260, 302 [hereinafter “DHS-AR”]. The experience of States and counties confirms the warning. In Maricopa County, Arizona, 52 of 60 voters flagged by SAVE and investigated by the county attorney turned out to be citizens, and in Texas, citizenship was later proven for at least 506 of the 2,724 voters that SAVE flagged. By contrast, the statuses Congress exempted from the NVRA quiet period—death, conviction of a crime, and adjudicated incapacity—are documented events or judgments about an identified person based on official records that are regularly transmitted to election officials.

IV. Applying the NVRA’s 90-day quiet period to SAVE-based removal programs is critical because their errors cannot be corrected quickly. Citizens wrongly flagged by SAVE often have to wait weeks to correct federal records or obtain documentary proof of

citizenship. That burden falls on citizens who have done nothing wrong, and in Arizona, a notice that goes unanswered leads to cancellation of the voter's registration and referral to prosecutors. Moreover, the remedies the Government offers come too late. A suit under Section 11(b) of the NVRA requires notice and a waiting period, and in practice depends on a voter finding counsel able to sue and obtain relief in a very short time. And the ability to cast a provisional ballot offers no help in Arizona because a ballot cast by a cancelled voter is not counted. Finally, applying the quiet period to SAVE-based programs does not leave States without recourse. They remain free to check citizenship at registration and to act on *individualized* information at any time. What the quiet period bars is a mass, mechanical removal program like Arizona's in the weeks when its errors cannot be fixed.

ARGUMENT

I. H.B. 2243 REQUIRES MONTHLY CHECKS AGAINST SAVE.

Arizona law requires election officials to compare the State's voter rolls periodically against several databases. Ariz. Rev. Stat. § 16-165(G)–(K). One is “the systematic alien verification for entitlements program maintained by the United States citizenship and immigration services,” or SAVE. *Id.* § 16-165(I). Each month, when “practicable,” county recorders must use SAVE “to verify the citizenship status” of registered voters who have not submitted documentary proof of citizenship. *Id.*

When a recorder “obtains information pursuant to this section and confirms that the person registered is not a United States citizen,” the recorder must mail the voter a notice that his or her registration “will be canceled in thirty-five days unless the person provides satisfactory evidence of United States citizenship.” *Id.* § 16-165(A)(10). If the voter does not respond in time, “the county recorder shall cancel the registration and notify the county attorney and attorney general for possible investigation.” *Id.* As the United States acknowledges, the program “is not time-limited.” U.S. Br. 10. Officials continue to act on it “during the 90-day period before a federal election.” *Id.*

Arizona’s Attorney General has advised that identification by SAVE “can, in some situations, provide evidence that a person is not a U.S. citizen” sufficient to trigger the cancellation process. Ariz. Att’y Gen. Op. I25-007, at 21 (2025). The statute does not define how the recorder otherwise “confirms that the person registered is not a United States citizen” before sending the cancellation notice. Ariz. Rev. Stat. § 16-165(A)(10). In practice, a cancellation notice often follows a routine database search.

Until 2025, citizenship checks under SAVE had a narrow reach. Users had to search one person at a time by a DHS numeric identifier, and SAVE held records on U.S.-born citizens only if they had some other interaction with DHS, had applied for government benefits or licenses, or had been subject to certain background checks. *League of Women Voters*, 835 F. Supp. 3d at 102; DHS-AR-111, 247–48. Even so, the Eleventh Circuit held that a Florida program relying on

that older version of SAVE was a “systematic” removal program subject to the quiet period. *Arcia*, 772 F.3d at 1339–40, 1344.

In 2025, DHS changed SAVE in “two key respects.” Stay Op., 2026 WL 2879700, at *1. It allowed users “to conduct bulk searches of multiple individuals at once,” *id.*, by uploading a file of voters’ names, dates of birth, and full or partial Social Security numbers, *League of Women Voters v. DHS*, No. 26-5243, 2026 WL 2643439, at *2 (D.C. Cir. Sep. 4, 2026) (per curiam), *stay granted*, No. 26A308, 2026 WL 2879700 (U.S. Sep. 25, 2026) (per curiam). And it linked SAVE to SSA records, extending its reach to “easily over 300 million” people, including U.S.-born citizens. SSA-AR-238; *League of Women Voters*, 835 F. Supp. 3d at 103. Thus, while under the old system, § 16-165(I)’s monthly checks could reach only registrants with a DHS identifier—which in practice meant naturalized citizens and noncitizens, Pet. App. 41a—now they can reach any registrant with a Social Security number.

II. ARIZONA’S MONTHLY SAVE CHECKS ARE A “SYSTEMATIC” REMOVAL PROGRAM.

No party to this case contests that Arizona’s monthly SAVE checks are systematic. Indeed, the name of the database alone—the *Systematic* Alien Verification for Entitlements program—reveals its nature.

Arizona law requires county recorders to run categories of registered voters through SAVE each month, comparing registrants against SAVE to verify their citizenship status, Ariz. Rev. Stat. § 16-165(I), the “purpose of which is to systematically remove the names

of ineligible voters from the official lists of eligible voters,” 52 U.S.C. § 20507(c)(2)(A). The program compares registered voters against a federal database on a fixed schedule. Its principal category, every voter registered without documentary proof of citizenship, is defined by registration status alone, with no individualized consideration.

In Arizona, county recorders are the designated SAVE users, *see* DHS-AR-528, and their part of the process is automated from start to finish. The recorder fills a spreadsheet template with each voter’s name, date of birth, Social Security number, and the purpose of the query (for example, voter verification), and uploads it. *League of Women Voters*, 835 F. Supp. 3d at 103; DHS-AR-1443–44. SAVE then “automatically discloses the voters’ uploaded data to SSA,” and SSA “automatically discloses” its search results back to DHS. *League of Women Voters*, 835 F. Supp. 3d at 103. As the court below put it, the statute obtains its information “through the systematic comparison of all—or groups of—registered voters to various databases,” and the cancellation that follows is “[c]ancellation of batches of registered voters based on a set procedure.” Pet. App. 45a. That is the same “mass computerized data-matching process to compare the voter rolls with other state and federal databases” the Eleventh Circuit held systematic in *Arcia*, 772 F.3d at 1344. The notice that a flagged voter receives comes “only after the systematic comparison prompts the mailing, as opposed to it being prompted by an individualized investigation.” Pet. App. 45a.

States and localities have used these bulk uploads at scale. By October 2025, Texas had compared its entire list of registered voters against SAVE data. Decl. of Christopher Davis ¶ 5, *League of Women Voters v. DHS*, No. 1:25-cv-03501 (D.D.C. Mar. 20, 2026), Dkt. 68-1 [hereinafter “Davis Decl.”]; *see id.* Ex. D (more than 18 million records). In 2026, Yavapai County, Arizona, ran every active and inactive voter with a Social Security number on file through SAVE—187,719 in all.³ Between January 2025 and April 2026, SAVE processed 59.7 million voter verification queries, with some users submitting bulk requests “relating to millions of individuals at one time.” Decl. of Brian Broderick ¶¶ 18(b), 22, *League of Women Voters*, No. 1:25-cv-03501 (D.D.C. Apr. 2, 2026), Dkt. 77-2 [hereinafter “Broderick Decl.”].

Jurisdictions likewise use systematic notification forms following a SAVE check. For example, after Texas ran its full voter roll through SAVE, its counties sent flagged voters letters containing the same sentence: SAVE records “show that you were not a United States citizen at the time of the comparative process.” Decl. of Anthony Nel ¶ 13, *League of Women Voters*, No. 1:25-cv-03501 (D.D.C. Mar. 12, 2026), Dkt. 66-3 [hereinafter “Nel Decl.”]; Decl. of Cory Doe ¶ 13, *id.*, Dkt. 66-6 [hereinafter “Cory Doe Decl.”]. And Arizona uses similar boilerplate language to reject those applying for voter registration. *See* Manual 341 (“[W]e were unable to match the immigration/citizenship number you provided with U.S. Department of

³ Michelle M. Burchill, Yavapai Cnty. Recorder, *My Experience Using the SAVE Database 3* (2026).

Homeland Security records.”); *see id.* at 343 (same). Arizona’s SAVE-based removal program is thus systematic from start to finish.

III. A SAVE NONCITIZEN IDENTIFICATION IS NOT A “READILY ASCERTAINABLE” STATUS LIKE CONVICTION, ADJUDICATED INCAPACITY, OR DEATH.

In enacting the NVRA, Congress expressly exempted from the quiet period removals based on a registered voter’s criminal conviction, adjudicated mental incapacity under state law, or death. 52 U.S.C. § 20507(c)(2). The Government contends that noncitizenship status—like conviction, mental incapacity, and death—is “readily ascertainable.” U.S. Br. 41-42. That is false. No single agency—at the federal or state level—has a comprehensive dataset capable of providing accurate, real-time verification of individuals’ U.S. citizenship status. Instead, federal agencies possess citizenship data collected for disparate, congressionally authorized functions, but which was never meant to be fed into a centralized database. And to the extent local officials in States like Arizona have citizenship data at all, it is even less complete and more diffuse.

The SAVE database is no exception. SSA records disclosed through SAVE were collected for SSA’s own program purposes concerning work authorization and eligibility for SSA benefits—not citizenship verification or election administration. *See* SSA-AR-115–16, 132, 149, 168–69, 188–89, 207.⁴ Arizona county recorders’

⁴*See also* SSA, Program Operations Manual System (POMS), *GN*

reliance on SAVE for list maintenance thus risks disenfranchising lawfully registered voters if recorders may remove purported noncitizens during the quiet period.

A. The Government Has Repeatedly Admitted that SAVE’s Citizenship Data Is Incomplete and Unreliable.

Since DHS modified SAVE in 2025, it has conceded that, due to “shortfalls in data accuracy,” the system cannot reliably confirm citizenship for citizens born outside the United States (e.g., naturalized, derived, and acquired citizens).⁵ See DHS-AR-260, 277, 302 (DHS “Privacy Threshold Analysis” documents finding that “[s]hortfalls in data accuracy in the system could cause incomplete or false results”). This is because, among other reasons, the United States is home to nearly 25 million naturalized citizens,⁶ and year over year, that

00303.000 *Citizenship, Alien Status and Residency* (Jan. 9, 2026), <https://perma.cc/R7CE-W26P>; 20 C.F.R. § 422.104 (section titled “Who can be assigned a social security number”); *id.* § 422.107 (section titled “Evidence requirements”).

⁵ Acquired citizenship is “[c]itizenship conferred at birth on children born abroad to a U.S. citizen parent(s).” USCIS, Acquired citizenship, Glossary of Terms. Derived citizenship is “[c]itizenship conveyed to children through the naturalization of their parents or, under certain circumstances, to foreign-born children adopted by U.S. citizen parents.” USCIS, Derivative citizenship, Glossary of Terms.

⁶ U.S. Census Bureau, *Nativity and Citizenship Status in the United States*, Am. Cmty. Surv. 1-Year Estimates, tbl. B05001 (2023).

number grows by the hundreds of thousands.⁷ Citizenship data housed at SSA and incorporated in SAVE reflects a person’s citizenship status only at the time they *applied* for a Social Security number; that status does not automatically update if the person later naturalizes or derives citizenship from a parent’s naturalization, nor must such an individual report a change in citizenship status unless applying for SSA benefits. SSA-AR-44, 103.

Thus, a naturalized citizen who applied for a Social Security card or otherwise interacted with SSA before naturalization may be incorrectly identified as a noncitizen in SSA records. SSA itself has repeatedly recognized the dangers of incorporating its stale citizenship data into SAVE, noting that “citizenship information in SSA’s records might not be current,” SSA-AR-44, and, as a result, its “citizenship information is accurate for SSA’s program purposes” only; “if used later for other purposes, it may not be current” because “SSA is not the custodian of U.S. citizenship records.” SSA-AR-103.⁸

Similarly, if an acquired or derived citizen has not obtained a “certificate of United States citizenship” from DHS—which “frequently” is the case, DHS-AR-259—

⁷ In Fiscal Year 2024, 818,570 people were naturalized, and in Fiscal Year 2022, that number was closer to one million. Since 2016, more than 628,000 people have been naturalized each year. Office of Homeland Security Statistics, *Table 21. Applications for Naturalization Filed, Persons Naturalized, and Applications for Naturalization Denied: Fiscal Years 1907 to 2024*.

⁸ See also Letter from SSA Office of Gen. Counsel, to Fair Elections Ctr. 2 (July 13, 2023) (same).

then “SAVE may not be able to confirm [the individual’s] U.S. citizenship.” DHS-AR-1525; *accord* DHS-AR-1529; DHS-AR-496 n.2.

The 2025 SAVE Privacy Impact Assessment and DHS’s “Narrative Statement” for the 2025 SAVE System of Records Notice reveal several other major risks with modified SAVE that DHS failed to mitigate or sufficiently address and that, consequently, persist. For example, in using SAVE, DHS “may share inaccurate information with registered agencies, which could in turn impact a registered user agency’s eligibility determination for an individual,” and “due to misspelling of names, transposed numbers, or incomplete information, the SAVE Program may produce inaccurate results.” DHS-AR-240; *accord* DHS-AR-484. Additionally, SAVE’s search-by-SSN functionality “does not allow for a second and third step review” and “registered agencies may not go through all steps to ensure accuracy of information.” DHS-AR-241; *accord* DHS-AR-484. Furthermore, DHS’s own guidance says that incorrect data accessible through SAVE is not corrected unless and until the individual submits a request for correction to the federal agency that maintains the data. *See* DHS-AR-1393 (SAVE “Fast Facts”); DHS-AR-1509 (July 2025 SAVE Tutorial). All of these shortcomings demonstrate that even when using SAVE, citizenship status is a moving target that is far from being “readily ascertainable.”

**B. States' Use of SAVE Further Confirms that
SAVE's Identification of Purported
Noncitizens Is Often Inaccurate.**

Noncitizen misidentifications are far from hypothetical and are in fact common among SAVE users. In Yavapai County, Arizona, the county recorder encountered a 72 percent error rate while using SAVE to identify purported noncitizens. Burchill, *supra*, at 3 (“[T]hese were false positives.”). Similarly, Maricopa County’s recorder used SAVE to flag at least 137 voters as noncitizens in early 2026 and referred them to the county attorney for investigation.⁹ Six months later, the county attorney’s office had finished investigating 60 of them and found that 52—nearly 87 percent—were citizens.¹⁰

Jurisdictions across the country have received similarly unreliable SAVE responses. In the fall of 2025, Texas ran its 18 million registered voters through SAVE, which flagged 2,724 as potential noncitizens.¹¹ Citizenship was later proven for at least 506 of them “because passport information was added to SAVE after

⁹ Press Release, Maricopa Cnty. Recorder’s Off., *Recorder’s Office Identifies 60 Non-Citizens Who Previously Voted in Maricopa County Using Federal SAVE Database* (Feb. 13, 2026); Press Release, Maricopa Cnty. Att’y’s Off., *Statement from MCAO on Referrals from the Maricopa County Recorder’s Office* (Mar. 23, 2026).

¹⁰ Sasha Hupka, *Maricopa County Investigated 60 Suspected Noncitizen Voters. 52 Are Citizens, 8 Are Not.*, Votebeat Ariz. (Sep. 28, 2026).

¹¹ Press Release, Tex. Sec’y of State, *Texas Secretary of State Refers 117 Cases for Investigation of Noncitizen Voting* (Sep. 15, 2026).

the state’s initial run,” and the State advised counties to reinstate those voters if they had been removed.¹²

Records from Texas counties demonstrate the consistency with which SAVE misidentifies registrants as noncitizens. Texas did not dispute that an independent investigation in Travis County found that “twenty-five percent of the non-citizen matches” there had already proven citizenship. *League of Women Voters*, 835 F. Supp. 3d at 115 (quotation marks to cited authority omitted). In Denton County, SAVE was wrong about at least 14 percent of purported noncitizens it identified, which the county learned only *after* those voters were threatened with purging and provided direct proof of citizenship.¹³ In Moore County, at least 55 percent of the purported noncitizen voters identified by modified SAVE provided documentary proof of citizenship; in Erath County, that number was 67 percent; and in Duval County, 100 percent of the potential noncitizens threatened with purging were actually citizens.¹⁴

Other localities have had similar results. A bipartisan group of 70 Missouri county clerks wrote to their General Assembly expressing concern over SAVE’s accuracy, claiming that the system produced “deeply flawed” lists that “include individuals we know to be

¹²*Id.*

¹³ Judd Legum & Rebecca Crosby, *The Federal Database That Could Upend the Midterm Elections*, Mother Jones (Apr. 9, 2026).

¹⁴ Jen Fifield & Zach Despart, *A federal tool to check voter citizenship keeps making mistakes. It led to confusion in Texas*, Texas Trib. (Feb. 13, 2026).

U.S. citizens.”¹⁵ St. Louis, Missouri, determined 81 percent of modified SAVE’s purported noncitizen results were wrong. *See* Legum & Crosby, *supra*. And Boone County, Missouri, found modified SAVE was wrong about more than half the purported noncitizens it identified. *Id.*

The risk of being misclassified as a noncitizen by SAVE is exacerbated by the fact that the manual review USCIS performs on flagged voters is itself imperfect. DHS quietly admitted as much this year, when it lowered SAVE’s overall target accuracy rate from 99 percent in 2024 to 97 percent after the system’s modifications.¹⁶ More than 60 million voter names have been run through SAVE, “amount[ing] to thousands of U.S. citizens being flagged as noncitizens and forced to reaffirm their citizenship.”¹⁷ Records of communication between USCIS and local election officials reflect this lack of confidence in SAVE, as well as general confusion about how to functionally use the system.¹⁸

¹⁵ Letter from Missouri County Clerks, to Representative Jonathan Patterson 2 (Dec. 3, 2025).

¹⁶ Stephen Dinan, *Homeland Security Lowers the Accuracy Rate for Database Used to Spot Voter Fraud*, Wash. Times (May 15, 2026). SAVE’s *actual* accuracy rate is the frequency with which agency personnel verified records correctly during manual reviews.

¹⁷ *Id.*

¹⁸ *See, e.g.*, CREW, FOIA Production No. COW2025005720, Rolling Release 3, pt. 2, at 1 (Sep. 2026) (an Ohio official alerting USCIS to a “discrepancy between records” so that they could “identify the issue and understand the impact”); *id.* pt. 1, at 111 (“But as you

Taken together, these real-world experiences with SAVE over the past year and a half show that using SAVE—or any even-less-reliable resource—to attempt to remove supposed noncitizen voters during the quiet period, when time is short and other pressures on election administrators are at their apex, will disenfranchise qualified voters. At its best, SAVE’s results are inconsistent and often misidentify citizens—especially naturalized, derived, and acquired citizens—as noncitizens. And it often takes months and significant resources to expose and correct those errors. During the quiet period, election administrators have neither.

C. Citizenship Status Is Easily Contrasted with the Status Categories that Congress Exempted from the NVRA Quiet Period.

Citizenship is easily distinguishable from the quiet-period exempted categories outlined in the NVRA—criminal conviction, adjudicated mental incapacity, and death—each of which relies on a singular, documented event for which official records are already possessed by the States.

State and county election officials are already in possession of records regarding “criminal conviction or mental incapacity.” § 20507(a)(3)(B). Under Arizona law, “[e]ach month the clerk of the superior court shall transmit to the secretary of state . . . a record of every

know, SAVE responses are a snapshot of current records, and doesn’t provide historical data.”); *id.* at 130–32 (SAVE “produced] some erroneous outcomes” due to a “glitch” and required USCIS to send “amended responses” that “can be tedious and inconvenient to sort through”).

felony conviction in that county within the preceding month.” Ariz. Rev. Stat. § 16-128. The secretary of state may then remove that individual “from the statewide voter registration database” and “notify the appropriate county recorder” so that they can “cancel the voter registration of the convicted felon.” *Id.* The same is true “[i]f the person has been adjudicated an incapacitated person.” *Id.* § 16-165(A)(3). Following adjudication, “the clerk of the superior court in the county in which those proceedings occurred shall file with the secretary of state an official notice of that fact. The secretary of state shall notify the appropriate county recorder, and the recorder shall cancel the name of the person on the register.” *Id.* § 16-165(D).

Notification of “the death of the registrant,” § 20507(a)(4)(A), follows a similar process. The Bureau of Vital Records, a division within the Arizona Department of Health Services, is “responsible for maintaining and issuing certified copies of vital records,” including death certificates.¹⁹ The Department of Health Services is statutorily obligated to “transmit” to the secretary of state all death records reported to the department on a “month[ly]” and “annual[ly]” schedule. *See* Ariz. Rev. Stat. § 16-165(E). The secretary of state may then use those records to “cancel[] the names of deceased persons from the statewide voter registration database” and “notify the appropriate county recorder” so that they may remove that person from the register. *Id.*

By contrast, a SAVE “non-citizen” response is an inter-agency inference based on incomplete or

¹⁹ *Vital Records - Home*, Ariz. Dep’t of Health Servs.

inaccurate data housed by the federal government. As discussed above, *supra* Part III.A–B, SAVE mines stale SSA data that was not collected for the purpose of citizenship verification and is updated irregularly, if at all. By the Government’s own admission, SAVE’s “[s]hortfalls in data accuracy” may cause “incomplete or false results.” DHS-AR-260, 302. As a result, SAVE outputs often prompt more confusion than clarity among local election officials when they contradict State-level data, or even previous SAVE queries. *See, e.g.*, Fifield & Despart, *supra* (citing a USCIS official who explained that a voter who was previously identified as a noncitizen had later been identified as a citizen because DHS had gained access to “more up-to-date” information via passport data).

Far from being “readily ascertainable,” a SAVE response presents “factual issues that [are] much harder for election officials to assess.” U.S. Br. 41–42. This is because SAVE does not rely on records from a documented event, such as the categories Congress exempted from the quiet period in the NVRA, and instead uses disjointed datasets that require further verification to ensure their accuracy.²⁰ This is much more akin to the process of identifying and removing registrants from the voter rolls due to a change in address. *See* § 20507(c)(1), (d). Using data provided by the United States Postal Service, if a State believes that a “registrant has moved to a different residence address not in the same registrar’s jurisdiction,” the county

²⁰ *See* Burchill, *supra*, at 3 (Yavapai County Recorder Burchill acknowledging that SAVE’s data must be “used carefully and properly vetted” because “no government database is perfect”).

registrar must “confirm the change of address” through the NVRA’s “notice procedure.” § 20507(c)(1). As relevant here, removals based on § 20507(c)(1) are subject to the NVRA’s 90-day quiet period. *See* § 20507(c)(2). If a belt-and-suspenders program that seeks to confirm a registrant’s address falls within the purview of the NVRA’s quiet period, so too should programs that seek to identify—using considerably less reliable data and a flawed notice structure, *see infra* Part IV.B—a registrant’s citizenship.

Taken together, the enterprise of determining a person’s citizenship status using SAVE is convoluted and prone to error. Not only is SAVE’s data inaccurate, but it is known to regularly produce false positives at alarmingly high rates. Unlike the categories that Congress exempted from the NVRA’s quiet period, SAVE’s underlying record is not a documented event, but is instead an incomplete snapshot culled from outdated federal data. For these reasons, noncitizenship is hardly “durable and readily ascertainable.” U.S. Br. 41–42.

IV. THE QUIET PERIOD PROTECTS CITIZENS FROM SAVE ERRORS THAT CANNOT BE CORRECTED BEFORE AN ELECTION.

The Government contends that applying the quiet period to noncitizen removals buys little and costs much. It says that systematic checks are the only way to catch noncitizens who register late, and that a citizen removed in error can sue under Section 11(b) of the NVRA. U.S. Br. 42–43. Each argument assumes that a SAVE error can be found and fixed quickly. DHS’s own procedures,

and the experience of the States and counties that have used SAVE, show that it cannot.

A. A SAVE Error Cannot Reliably Be Corrected in the Weeks Before an Election.

Application of the 90-day quiet period to SAVE-based identifications of alleged noncitizens is critical because there is a high risk that eligible voters incorrectly identified as noncitizens will not be able to correct the error in the short time before the election. The Eleventh Circuit has explained why the NVRA treats the final three months before a federal election differently. At most points in the election cycle, “eligible voters who are incorrectly removed have enough time to rectify any errors.” *Arcia*, 772 F.3d at 1346. But “[e]ligible voters removed days or weeks before Election Day will likely not be able to correct the State’s errors in time to vote.” *Id.* That is why the NVRA “permits systematic removal programs at any time *except* for the 90 days before an election because that is when the risk of disfranchising eligible voters is the greatest.” *Id.*

SSA answers a SAVE query “within one second or less.” SSA-AR-42. Correcting a stale record can take far longer. A Virginia voter received a Social Security number in 1987, naturalized in 1995, and still appeared in SSA’s records as a noncitizen in 2025. When the voter called to fix the error, the earliest in-person appointment available was November 24, 2025, twenty days after the State’s election. Decl. of J. Doe 6 ¶¶ 2, 6, 9, 15, 19, *League of Women Voters*, No. 1:25-cv-03501 (D.D.C. Oct. 7, 2025), Dkt. 16-8. A Texan who obtained his number as a permanent resident later became a citizen through his parents’ naturalization. A county letter gave him 30 days

to prove his U.S. citizenship. His only proof was an expired passport. He applied to renew it, but the county cancelled his registration before the new passport arrived. Nel Decl. ¶¶ 4–5, 12–14, 17, 22, 25.

Counties need time as well. On October 16, 2025, Texas placed 97 SAVE matches in Travis County’s online repository. The county learned of the list five days later. Davis Decl. ¶¶ 6–7, 9. Between then and December 17, its voter registration director sought state records to evaluate the matches—an effort that took “an untold number of hours of work.” *Id.* ¶¶ 10–18. In Maricopa County, it took the county attorney’s office six months to determine that 52 of 60 voters flagged as noncitizens were in fact citizens. *See supra* Part III.B. And not all counties can or will dedicate the time and resources expended by Travis County—home to Austin—and Maricopa County—home to Phoenix.

B. The Burden of a SAVE Error Falls on Citizens Who Have Done Nothing Wrong.

SAVE’s errors fall most heavily on citizens whose status changed after they last dealt with SSA, such as naturalized and derived citizens. *See supra* Part III.A. The record shows SAVE flagging even citizens who hold passports. Two Texas voters who acquired citizenship through their parents had been issued U.S. passports in 2012 and 2013, yet each received a county letter stating that SAVE records showed they “were not a United States citizen.” Nel Decl. ¶¶ 5–6, 13; Cory Doe Decl. ¶¶ 5–6, 13. Having to prove one’s citizenship in response is itself a burden, as this Court recognized in granting the Government’s stay application. A naturalized citizen whose SSA record was out of date “likely would have

been required to provide additional proof of citizenship,” and the “need to take . . . affirmative steps to avoid risk of harm . . . constitutes a cognizable injury.” Stay Op., 2026 WL 2879700, at *2 (quoting *Meese v. Keene*, 481 U.S. 465, 475 (1987) (ellipsis in original)).

The notices that start the cancellation clock can be easy to miss. Texas counties sent form letters stating that a “comparison of the information in your voter registration records with the United States Citizenship and Immigration Services SAVE records show that you were not a United States citizen at the time of the comparative process.” Nel Decl. ¶ 13; Cory Doe Decl. ¶ 13. The envelopes had no markings showing that they concerned the voter’s registration. Nel Decl. ¶ 15; Cory Doe Decl. ¶ 15. One voter set the letter aside because it “looked like junk mail, or even a scam,” and had a week left to respond when the letter was finally opened. Decl. of Alex Doe ¶¶ 12–13, *League of Women Voters*, No. 1:25-cv-03501 (D.D.C. Mar. 12, 2026), Dkt. 66-4 [hereinafter “Alex Doe Decl.”]. Arizona’s Attorney General has recognized the same problem, noting that a voter may fail to respond because of “not seeing the request, not fully understanding the request, or perhaps even suspecting that the request is not genuinely from the same government office.” Ariz. Att’y Gen. Op. I25-007, at 23.

Some voters never receive the notice at all. Bailey Doe naturalized in 2021 and holds both a certificate of naturalization and a passport. Decl. of Bailey Doe ¶¶ 5–7, *League of Women Voters*, No. 1:25-cv-03501 (D.D.C. Mar. 12, 2026), Dkt. 66-5 [hereinafter “Bailey Doe Decl.”]. After voting in November 2025, Bailey Doe

received a notice dated in mid-December stating that her registration had been cancelled for failure to respond to a “Notice of Examination.” She never received that notice. *Id.* ¶¶ 11–14. It took three telephone calls to learn that the cancellation rested on a SAVE identification, and the county had no record of mailing the earlier notice. *Id.* ¶¶ 20–22. The registration “remained cancelled during the voting period for the March 3, 2026 primary election in Texas,” and Bailey Doe “was unable to vote.” *Id.* ¶ 31. The cancellation notice was dated within 90 days of that primary.

Voters in under-resourced counties are particularly at risk for disenfranchisement. Travis County’s voter registration director warned that wrongly flagged voters in counties without the resources to investigate “may be removed from the voter rolls improperly and very likely will not realize the removal until they go to the polls to vote.” Davis Decl. ¶ 20. And the consequences can reach beyond the registration. Under Arizona’s statute, if a flagged voter does not respond within 35 days, “the county recorder shall cancel the registration and notify the county attorney and attorney general for possible investigation.” Ariz. Rev. Stat. § 16-165(A)(10). Accordingly, a citizen could be not just disenfranchised, but also the target of a criminal investigation, all as the result of a misidentification by SAVE.

C. The Remedies the Government Offers Arrive Too Late.

The Government suggests that there is no problem here because a person wrongly removed from the voter rolls by a SAVE misidentification has an available

remedy—a private suit under Section 11(b) of the NVRA, which the Government says “is expressly made available even within the 90-day window before a federal election.” U.S. Br. 43. But under Section 11(b), a person aggrieved must notify the State’s chief election official and wait 90 days for a cure. The wait is 20 days if the violation occurs within 120 days of a federal election. 52 U.S.C. § 20510(b)(1)–(2). Notice is excused only when the violation occurs within 30 days of the election. *Id.* § 20510(b)(3). Accordingly, a citizen cancelled during the quiet period must learn of the cancellation, give notice, wait, sue, and win an injunction—all before Election Day.

Even organized plaintiffs with counsel already in place have struggled to obtain timely relief. In Virginia, plaintiffs sued “on the first day they could do so without waiting another 20 days” and won a preliminary injunction 11 days before the 2024 election, but this Court stayed it five days later. *Va. Coal. for Immigrant Rights v. Beals*, No. 24-2071, 2024 WL 4601052, at *2 (4th Cir. Oct. 27, 2024), *stay granted*, No. 24A407, 2024 WL 4608863 (U.S. Oct. 30, 2024); *Va. Coal. for Immigrant Rights v. Beals*, 803 F. Supp. 3d 454, 463 (E.D. Va. 2025); *Beals v. Va. Coal. for Immigrant Rights*, No. 24A407, 2024 WL 4608863 (U.S. Oct. 30, 2024). In Alabama, relief came less than three weeks before the same election, and only after the Secretary of State “admitted that his purge list included thousands of United States citizens.” *Ala. Coal. for Immigrant Justice v. Allen*, No. 2:24-cv-1254, 2024 WL 4510476, at *1–2 (N.D. Ala. Oct. 16, 2024).

The Government also points to NVRA Section 8(b)(1), which requires that list maintenance be

“uniform, nondiscriminatory, and in compliance with the Voting Rights Act.” 52 U.S.C. § 20507(b)(1). In its view, that requirement “sets a modest floor” for noncitizen removal programs. U.S. Br. 43. But Section 8(b)(1) governs how a program operates. It does not say when a program may run, and a voter can enforce it only through the same Section 11(b) suit. This case shows how slowly that process works. Arizona enacted H.B. 2243 in 2022, and only in 2025 did the Ninth Circuit hold that its citizenship checks violate NVRA Section 8(b)(1) because they are “likely to have a discriminatory impact on [naturalized] citizens.” Pet. App. 40a–41a. That holding is not before this Court.

Nor would a provisional ballot help a citizen whose voter registration was cancelled under § 16-165(A)(10). Arizona counts a provisional ballot only if the recorder confirms “that the voter was registered to vote and was eligible to vote in the election.” Manual 239; *see* Ariz. Rev. Stat. § 16-584(E). For a cancelled voter, the provisional affidavit can serve only as a registration “for future elections (not the current election the provisional ballot was used for).” Manual 240. And a registration counts for an election only if received “before midnight of the twenty-ninth day preceding the date of the election.” Ariz. Rev. Stat. § 16-120(A).

D. States Can Keep Noncitizens Off Their Voter Rolls Irrespective of the Quiet Period.

The Government claims that systematic citizenship checks inside the 90-day window “are the only way for States to ensure that a rush of noncitizens do not illegally register shortly before a federal election.” U.S. Br. 42–43. That overlooks checks at registration, which lawfully

can be conducted during the quiet period. The NVRA’s quiet-period provision governs only programs to “remove the names of ineligible voters from the official lists of eligible voters.” 52 U.S.C. § 20507(c)(2)(A). It does not govern review of new applications. Arizona already conducts that review. Since 2005, applicants using the State’s voter registration form have had to provide documentary proof of citizenship. When a federal-form applicant does not, the recorder must try to verify citizenship “[w]ithin ten days after receiving” the form and must register the applicant as eligible to vote in only federal elections if the recorder cannot. Ariz. Att’y Gen. Op. I25-007, at 5, 9–10 (quoting Ariz. Rev. Stat. §§ 16-121.01(D)–(E), 16-166(F)). Arizona counties have used SAVE to check registration applicants for two decades. DHS-AR-551; Burchill, *supra*, at 1.

The quiet period also leaves recorders free to act on a specific voter. A State may still remove a particular noncitizen “on the basis of individualized information, even within the 90–day window.” *Arcia*, 772 F.3d at 1348. This Court has described such “individualized inquiries” as “permitted under federal law during this period.” Stay Op., 2026 WL 2879700, at *3 (emphasis omitted). What is not permitted is a systematic program like Arizona’s.

E. Bulk Processing Under Deadline Multiplies the Risks Associated With Handling Sensitive Data.

Finally, the use of SAVE during the quiet period increases the risk of improperly releasing sensitive data. Modified SAVE moves a great deal of sensitive information. A single bulk upload may cover “millions of

individuals at one time,” Broderick Decl. ¶ 18(b), and each entry includes a voter’s name, date of birth, and full or partial Social Security number, *League of Women Voters*, 2026 WL 2643439, at *2. When a partial number matches, SSA sends DHS the full number in return. SSA-AR-44. DHS then keeps a record of each case for ten years. *League of Women Voters*, 2026 WL 2643439, at *10. And the States and counties that run the queries can download the files they uploaded. DHS-AR-1396.

Election offices’ list-maintenance files have been breached before. In 2023, a Florida county elections supervisor reported that an unauthorized user appeared to have copied files “used to conduct voter registration list maintenance,” exposing the Social Security and driver’s license numbers of about 58,000 voters.²¹

The bulk files are not the only exposure. Correcting a SAVE error discloses still more sensitive data to election offices. Texas counties told flagged voters they could send documentary proof of citizenship by hand, mail, fax, or email. Nel Decl. ¶ 13. Two declarants emailed images of their passports to county addresses to keep their registrations. Alex Doe Decl. ¶¶ 13–14; Cory Doe Decl. ¶¶ 16, 18. A third, unwilling to send his passport by email, chose to deliver it in person and remained unregistered in the meantime. Nel Decl. ¶¶ 22–23, 26. According to that declarant, State guidance directs counties to forward the documents they receive to the secretary of state “to be provided to USCIS.” *Id.* ¶ 43.

²¹ C.T. Bowen, *Hillsborough Election Hack Exposed 58,000 Voters’ Private Information*, Tampa Bay Times (May 31, 2023).

In the final weeks before an election, the officials handling this data are also running the election. In Arizona, the Yavapai County Recorder reviewed her SAVE results while preparing for the primary. Burchill, *supra*, at 3. The quiet period keeps that work out of the weeks when officials have the least time to do it carefully. That serves two of the NVRA's purposes: ensuring "accurate and current voter registration rolls" and implementing the statute "in a manner that enhances the participation of eligible citizens as voters." 52 U.S.C. § 20501(b)(2), (4).

CONCLUSION

The Court should hold that the NVRA's 90-day quiet-period provision applies to Arizona's program for canceling registrations based on SAVE results, and it should affirm the judgment of the court of appeals on the second question presented.

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